


# Administrative Office of the Courts

Chief Justice Christine M. Durham  
Utah Supreme Court  
Chair, Utah Judicial Council

## MEMORANDUM

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator

**To:** Diane Jones, Audit Department  
**From:**  Brent Johnson, General Counsel  
**Re:** No Registration  
**Date:** September 18, 2007

---

This memorandum is in response to your e-mail dated July 30, 2007 requesting guidance on "no registration" charges. I think that I previously answered this question orally, but wanted to provide written confirmation.

The questions arise from when an officer issues a citation under 41-1a-1303(1) - failure to register or expired registration - when the officer could have cited under 41-1a-214 - no registration in the vehicle. In these situations, there are a couple of options for clerks. A clerk must be careful to not give any type of legal advice and therefore some of the options are less desirable than others. A clerk might be treading a fine line between giving procedural advice versus legal advice.

The preferred option in these cases is to have the clerk treat the citation as correctly charged and give the \$10.00 credit permitted under 41-1a-1303. Another viable option is for the clerk to talk with a judge ahead of time to determine how the judge would like to handle these cases. The judge could either direct the clerk to simply handle the citation as written, refer those defendants to the judge for resolving the situation, or referring the citation to the prosecutor to determine whether the citation was charged correctly. A clerk should not personally refer a defendant to the prosecutor to discuss a citation. This would be making a judgment call on the citation and then essentially advising a defendant on how the citation might be resolved. With the judge's guidance, a judge can refer a citation to the prosecutor to determine the correct charge. In that case, the clerk could inform a defendant that the citation has been referred to the prosecutor to determine whether the charge is correct and the defendant could discuss the case with the prosecutor prior to the charge being filed.

If the clerk seeks to dismiss a charge under 41-1a-214, the clerk could only do so with

**The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

express permission from the judge. A clerk cannot make a judgment call as to whether a citation has been charged correctly unless it appears as if there has simply been a typographical error in the citation. However, a clerk can discuss a case with a judge to see how a judge would like the case to be handled. In that situation, the judge would be exercising the discretion and not the clerk.

Please let me know if you have any questions about this.